

Appl. No. 10/536,972
Amdt. dated October 20, 2008
Reply to Office Action of July 18, 2008

Remarks/Arguments

This amendment responds to the Office Action of July 18, 2008, in accordance with 37 C.F.R. § 1.111. Reconsideration of this application is respectfully requested.

Claims 1 through 27 are pending in the application. Claims 1 and 5 are amended by this response. Claims 28 through 104 are withdrawn.

The Examiner rejected claims 1 through 4 under 35 U.S.C. § 102(b) as being anticipated by Sieger (DE 3922779). The Applicants traverse this rejection and request reconsideration.

The Applicants amended claim 1 to include the step of evacuating the container of air located between the container and the bag. (Amended Claim 1, Specification, page 2, line 27, through page 3, line 8.) Sieger does not disclose evacuating air surrounding the bag prior to filling a bag with an inert gas. Therefore, Sieger does not disclose each and every element of the claimed invention. The Applicants respectfully request withdrawal of the rejection under 35 U.S.C. 102(b).

The Examiner rejected claims 1 through 19 under 103(a) as being unpatentable over Mockesch (U.S. Patent No. 4,256,150) in view of Sonoco (GB 2210865) and Sieger (DE 3922779). The Applicants traverse this rejection and request reconsideration.

The Applicants amended claims 1 and 5 to include the step of evacuating the container of air located between the container and the bag. (Amended claims 1 and 5.) None of the cited references, Mockesch, Sonoco, or Sieger, teaches or discloses evacuating the container of air prior to filling a bag with an inert gas. The Examiner states that "it was common knowledge at

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the time of the invention, that a positive pressure in one direction has the same effect as a negative pressure in the opposite direction" and therefore, "it would have been obvious to one of ordinary skill in the art at the time of the invention to inflate Mockesch's bag by creating a vacuum state on the exterior thereof (between the bag and the container, rather than by creating a state of positive pressure differential on the inside thereof." (Office Action, page 7.) However, the claimed invention does not use negative pressure to inflate the bag. As disclosed in the specification, the air located between the bag and the container is evacuated from the container prior to the inflation of the bag with an inert gas, the subsequent filling of the bag with beverage, and venting of the inert gas from the bag. (Specification, page 2, lines 27- page 3, line 8.)

Furthermore, one of ordinary skill in the art referring to Mockesch would not arrive at the method of the claimed invention. Mockesch discloses a method of filling a plastic bag in a pressure tank where the plastic bag is surrounded by a hoselike jacket and dropped into the pressure tank. (Column 1, lines 6 through 7, column 2, lines 60 through 68.) As filling of the tank continues, the plastic bag is pulled steadily farther out of the jacket. (Column 3, lines 9 through 12.) The method of Mockesch is unlike that of the claimed invention in which the step of inflating the bag brings the bag into contact with inside walls of the container. The inflation of the bag in Mockesch brings the bag into contact with the hoselike jacket. Also, Mockesch does not disclose inflating the bag prior to filling the bag with the carbonated beverage. Mockesch is not relevant in consideration of the claimed invention.

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None of the cited references, Mockesch, Sonoco, or Sieger, teaches or discloses, alone or in combination, evacuating the container of air prior to inflating a bag with an inert gas. The bag of the claimed invention is not inflated by the evacuating air located between the container and the bag like the Examiner asserts. Accordingly, it is requested that the rejection of claims 1 through 19 under 35 U.S.C. § 103(a) as being unpatentable over Mockesch in view of Sonoco and Sieger be withdrawn.

The Examiner rejected claims 12 through 27 under 103(a) as being unpatentable over Mockesch (U.S. Patent No. 4,256,150) in view of Sonoco (GB 2210865), Sieger (DE 3922799) and Pitts (U.S. Patent No. 3,527,021). The Applicants traverse this rejection and request reconsideration.

None of Mockesch, Sonoco, or Sieger teaches or discloses the step of evacuating the container of air located between the container and the bag.

Pitts discloses an apparatus in which an air duct directs a stream of air toward a topmost folded bag to partially open the bag. As the bag opens, it is fully opened as its forward or outermost external surface is grasped by a vacuum engaging means incorporating a plurality of small holds through which air is drawn to open the bag. The bag is filled, and after an interval of time the vacuum engaging means reciprocates on the means with a sliding motion, the sliding motion pulls the vacuum engaged bag sufficiently to tear the upper lip free of the wicket to permit the bag to be supported solely by the vacuum engaging means. (Column 2, lines 34 through 43.)

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The vacuum engaging means of Pitts is unlike the claimed invention. The claimed invention does not use a vacuum to open the bag. In the claimed invention, the air located between the bag and the container is evacuated from the container prior to the inflation of the bag with an inert gas, the subsequent filling of the bag with beverage, and venting of the inert gas from the bag. (Specification, page 2, lines 27- page 3, line 8.)

None of the cited references, Mockesch, Sonoco, Sieger, or Pitts, teaches or discloses, alone or in combination, evacuating the container of air prior to inflating a bag with an inert gas. Accordingly, it is requested that the rejection of claims 1 through 19 under 35 U.S.C. § 103(a) as being unpatentable over Mockesch in view of Sonoco and Sieger be withdrawn.

In view of the foregoing, it is submitted that this application is now in condition for allowance, and an early Office Action to that end is earnestly solicited.

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